

Statement of Emergency
703 KAR 5:020E

Kentucky's previous accountability plan for the federal No Child Left Behind Act (NCLB) included averaging data from two (2) or three (3) years preceding the current year to make Adequate Yearly Progress (AYP) determinations if the school or student subpopulations of sufficient size did not meet their goals for reading and mathematics using current year data for calculations. However, with implementation of the Augmented Norm Referenced Test (NRT) in the spring of 2006, there will only be one year of data available in those grades. Without data from previous years for the augmented grades, Kentucky will invoke the flexibility offered by the "Wellstone Amendment" and continue to use the existing Kentucky Core Content Test (KCCT) grades to calculate AYP for accountability purposes. Therefore, AYP for 2006 will be calculated by averaging two (2) years of data from the existing KCCT grades in reading and mathematics for all schools and districts and subpopulations of sufficient size for the two (2) years combined.

The U.S. Department of Education provided this approach and there would be a risk of loss of federal funding if Kentucky does not comply with the state plan approved by the U.S. Department of Education. As a result, an emergency amendment is necessary.

The emergency administrative regulation will be replaced by an ordinary administrative regulation, which is being filed simultaneously with the emergency administrative regulation. The emergency administrative regulation is identical to the ordinary administrative regulation.

ERNIE FLETCHER, Governor

GENE WILHOIT, Commissioner of Education

KEITH TRAVIS, Chairperson
Kentucky Board of Education

1 **Education Cabinet**

2 **Kentucky Board of Education**

3 **Department of Education**

4 **(Emergency Amendment)**

5 **703 KAR 5:020E. The formula for determining school accountability.**

6 RELATES TO: KRS 158.645, 158.6451, 158.6453, 158.6455, 158.6457, 20 U.S.C. 6301
7 et seq.

8 STATUTORY AUTHORITY: KRS 156.029, 156.070, 158.6453, 158.6455

9 NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.6455 requires the

10 Kentucky Board of Education to promulgate administrative regulations to establish a

11 system for identifying and rewarding successful schools and to establish appropriate

12 consequences for schools failing to meet or exceed their assistance line. This

13 administrative regulation establishes a single assessment system with two (2)

14 accountability dimensions: one (1) addressing the requirements of KRS 158.6455 to

15 determine school classifications, and a second addressing the conditions necessary to

16 conform to federal assessment and accountability requirements of the "No Child Left

17 Behind Act of 2001", 20 U.S.C. 6301 et seq.

18 Section 1. Assessments. (1) The Kentucky Department of Education shall administer the

19 Kentucky Core Content Tests and norm-referenced tests. The Kentucky Core Content

20 Tests shall be administered as follows:

21 (a) Reading at grades 4, 7, and 10;

- (b) Mathematics at grades 5, 8, and 11;
- (c) Science at grades 4, 7, and 11;
- (d) Social studies at grades 5, 8, and 11;
- (e) Arts and humanities at grades 5, 8, and 11;
- (f) Practical living/vocational studies at grades 5, 8, and 10;
- (g) Writing at grades 4, 7, and 12;
- (h) Writing portfolio at grades 4, 7, and 12; and
- (i) Alternate portfolio at 4, 8, and the last anticipated year of attendance at the high school level.
- (2) The norm-referenced tests shall be administered in reading/language arts and mathematics at the end of primary, grade 6, and grade 9.
- (3) In order to comply with the "No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq., the Kentucky Department of Education shall augment the norm-referenced test to appropriately measure Kentucky's core content in reading and mathematics at grades three (3) and six (6). At grades five (5) and eight (8) an additional augmented norm-referenced test shall be administered in reading, and at grades four (4) and seven (7) an additional augmented norm-referenced test shall be administered in mathematics.
- (4) Required participation in the National Assessment of Educational Progress. If a school is selected by the U.S. Department of Education or its designated contractors to participate in the state National Assessment of Educational Progress in reading, mathematics, and science at grades four (4) and eight (8), the school shall participate fully.
- Section 2. Academic and Nonacademic Index Calculations. (1) For purposes of calculating a school's academic indices, the school shall be held accountable based on an aggregated average of the performance of the elementary, middle, or high school students who have been enrolled in the school for

1 a full academic year in the accountability grades. The points assigned to students scoring at each student
2 achievement level and sublevel for purposes of computing the academic indices for a particular content
3 area shall include:

4 (a) Nonperformance - if a total open-response raw score of less than one (1), and multiple-choice total
5 raw score that is less than chance performance and the score converts to less than medium novice, it
6 shall be assigned a score of zero. For the writing or alternate portfolio, a blank or incomplete response
7 shall be assigned a score of zero;

8 (b) Medium novice (reading, mathematics, science, social studies, alternate portfolio, writing on-demand
9 prompt, writing portfolio, arts and humanities, practical living and vocational studies) shall be assigned
10 a score of thirteen (13);

11 (c) High novice (reading, mathematics, science, and social studies) shall be assigned a score of twenty-
12 six (26);

13 (d) Low apprentice (reading, mathematics, science, and social studies) shall be assigned a score of forty
14 (40);

15 (e) Medium apprentice (reading, mathematics, science, social studies, alternate portfolio, writing on-
16 demand prompt, writing portfolio, arts and humanities, practical living and vocational studies) shall be
17 assigned a score of sixty (60);

18 (f) High apprentice (reading, mathematics, science, and social studies) shall be assigned a score of
19 eighty (80);

20 (g) Proficient in all content areas shall be assigned a score of 100, or distinguished in all content areas
21 shall be assigned a score of 140.

22 (2) For all content areas except writing, the scores derived from the Kentucky Core Content Test shall be
23 based on a scoring method that assigns sixty-seven (67) percent of the weight of the scores from open-

response items and thirty-three (33) percent of the weight from multiple-choice items. The writing score shall be based on the writing prompt and the writing portfolio.

(3) The values for attendance rate and successful transition to adult life rate shall be the actual percentage reported. The values entered into formula calculations for retention rate and dropout rate shall be 100 minus the actual percentage calculated. Nonacademic data for a particular assessment year shall be calculated using the data from the previous school year. Nonacademic data shall be based on all grades within a school building generating appropriate data as follows:

- (a) Attendance, primary through grade twelve (12);
- (b) Retention rates, grades four (4) through twelve (12);
- (c) Dropout rates, grades seven (7) through twelve (12); and
- (d) Successful transition to adult life for the graduating students.

(4) Scores from alternate portfolios shall be included in the academic indices so that the data from an alternate portfolio completed by a student eligible to participate with an alternate portfolio contributes the same weight to the academic component of the accountability index as would the data for a student participating in the regular components of the assessment program at the elementary, middle, or high school levels. The same requirement shall be applied to calculations required by "No Child Left Behind Act of 2001" 20 U.S.C. 6301 et seq.

Section 3. Components of the Accountability Index and Weights. (1) The accountability index shall consist of two (2) components. Component one (1) consists of academic indices and the nonacademic index. Component two (2) shall be an index created from a national norm-reference test (NRT).

Component one (1) shall comprise ninety-five (95) percent of the total index. Component two (2) shall comprise five (5) percent of the index.

(2) The accountability index shall be rounded to the nearest tenth on the accountability scale.

- 1 (3) Computing the academic index for each of the content areas of writing, reading, mathematics,
- 2 science, social studies, arts and humanities, and practical living and vocational studies shall be based on
- 3 the average of student scores as described in Section 2(1) of this administrative regulation. Component
- 4 one (1) of the accountability index shall be calculated according to the following weights:
- 5 (a) Elementary school (grades end of primary - grade five 5)

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	20%	19.00%
Mathematics	20%	19.00%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On- Demand Prompt	3%	2.85%
Writing Portfolio	12%	11.40%
Arts and Humanities	5%	4.75%
Practical Living and Vocational Studies	5%	4.75%

Nonacademic Index (5%)		
Attendance Rate	4%	3.80%
Retention Rate	1%	0.95%
National-Norm-referenced Test	(Not Applicable)	5.00%
	100%	100.00%

1 (b) Middle school (grades 6 - 8)

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	15%	14.25%
Mathematics	15%	14.25%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On-Demand Prompt	3%	2.85%
Writing Portfolio	12%	11.40%
Arts and Humanities	7.5%	7.125%

Practical Living and Vocational Studies	7.5%	7.125%
Nonacademic Index (10%)		
Attendance Rate	4%	3.80%
Retention Rate	4%	3.80%
Dropout Rate	2%	1.90%
National-Norm- referenced Test	(Not Applicable)	5.00%
	100%	100%

1 (c) High school (grades 9 - 12)

Content Area	Component One (Without NRT)	Component One and Two (With NRT)
Reading	15%	14.25%
Mathematics	15%	14.25%
Science	15%	14.25%
Social studies	15%	14.25%
Writing (15%)		
Writing On-	3%	2.85%

Demand Prompt		
Writing Portfolio	12%	11.40%
Arts and Humanities	7.5%	7.125%
Practical Living and Vocational Studies	7.5%	7.125%
Nonacademic Index (10%)		
Attendance Rate	2%	1.90%
Retention Rate	0.5%	0.48%
Dropout Rate	3.75%	3.56%
Successful Transition to Adult Life	3.75%	3.56%
National-Norm-referenced Test	(Not Applicable)	5.00%
	100%	100%

- 1 (4) The academic index for each content area and the nonacademic index shall be determined by
- 2 summing the indices as described in this section.
- 3 (5) Component one (1) of the accountability index shall be calculated by aggregating the data from all of
- 4 the students in the school.
- 5 (6) Component two (2) of the accountability index shall be derived from the national norm-referenced
- 6 assessment as follows:

(a) Student performance standards comparable to those used in component one (1) and described in Section 2 of this administrative regulation shall be established by the end of the year 2000.

(b) Scores shall be associated with each performance level as described in Section 2 of this administrative regulation; and

(c) The component two (2) index shall be based on the average of the scores.

Section 4. Schools Not Conforming to the Standard Grade Configuration. (1) For the Kentucky Core Content Test, if a school does not have grades 4 and 5 at the elementary level, grades seven (7) and eight (8) at the middle school, or grades ten (10), eleven (11), and twelve (12) at the high school, the school shall be combined with the school or schools having the missing grade(s) its students previously attended or would subsequently attend, forming a single school accountability unit, for both state and federal school accountability purposes.

(2) A school that does not contain a grade at which the national norm-referenced test is administered shall have its accountability index calculated using only the weights specified as component one (1) of the index in Section 3 of this administrative regulation. Schools that have more than 1 grade at which the national norm-referenced test is administered shall have those grades combined to form the basis for component two (2) of the calculations described in Section 3 of this administrative regulation.

(3) A school or school district may request a waiver of the requirements of subsections (1) and (2) of this section or from the normal configuration of schools (elementary, middle, or high school) from the Kentucky Board of Education specifying other combinations of schools and assessment data if all students in an accountability grade are included, and all schools are accountable for all content areas assessed. A condition for the granting of a waiver shall be that each affected school and school district shall waive in writing its right to make the school configuration for which it sought a waiver the basis of

1 a subsequent appeal of a school's classification. A waiver request shall be received by the Kentucky
2 Department of Education by June 30 of the year prior to the biennium for which the waiver is requested.

3 Section 5. Schools Having More than One (1) Accountability Level. If a school has more than one (1)
4 accountability level, the school's accountability index shall be the average of the academic and
5 nonacademic data for the school. This average accountability index shall be applied toward making
6 adequate yearly progress decisions.

7 Section 6. School Service Area Reconfigurations. (1) If as a result of a change in service area boundaries
8 or local board of education policies affecting student population served by a school, less than eighty (80)
9 percent of a school's student population at its accountability grades is stable, the school shall be
10 considered a reconfigured school. To determine if eighty (80) percent of the population is stable, the
11 number of students in the stable population shall be divided by the sum of that number, plus the lost
12 population, plus the gained population. If the result is less than eight-tenths (.8), the school shall be
13 considered a reconfigured school.

14 (2) Schools reconfigured after the 1998-1999 school year shall be assigned a baseline calculated from
15 the 1998-1999 and 1999-2000 aggregate district level data for the appropriate level (elementary, middle,
16 or high school).

17 (3) A school district shall notify the Department of Education of any school that is planning for the
18 upcoming school year to be a reconfigured school as provided in this administrative regulation by June
19 30 prior to the beginning of the school year in which the reconfiguration is to occur.

20 (a) For the purpose of assigning a school classification of meets goal, progressing, or in need of
21 assistance, a school that is considered a reconfigured school in either year of a biennium after 2000 on
22 which accountability decisions are based shall have the performance judgment that would have applied
23 to the district at that level (elementary, middle, or high school), if separate decisions (elementary,

1 middle, or high school) were to be applied at the district level. In the alternative, a school district may
2 submit to the Department of Education a plan for reconstituting baseline data taking into consideration
3 the changes in service areas. The plan shall assure that local district calculations are accurate and
4 appropriately include all student data in both baseline and growth index calculations. The plan shall be
5 submitted to the Department of Education at the same time the district notifies the Department of
6 Education of the school reconfiguration. If the Department of Education approves the plan, it shall
7 become effective and shall remain in effect unless a specific waiver from this reconfiguration
8 arrangement is requested from and granted by the Kentucky Board of Education as provided in this
9 administrative regulation. This alternative shall not be implemented until the affected schools have a
10 complete biennium of data to be considered in the growth calculations. A condition for acceptance of the
11 plan shall be that each affected school and school district shall waive in writing its right to make the plan
12 the basis of a subsequent appeal of a school's classification.

13 (b) To determine whether a reconfigured school meets adequate yearly progress for the first three (3)
14 years the school is reconfigured, the determination shall be made based on whether the school meets the
15 annual measurable objectives established in reading and mathematics and has a participation rate for the
16 school and its subpopulations of sufficient size identified in 20 U.S.C. 6301 et seq., of at least ninety-
17 five (95) percent. Beginning with the fourth year of the school's reconfiguration, the school shall meet
18 all requirements for making adequate yearly progress as provided in Section 10(2) of this administrative
19 regulation.

20 (c) In the alternative to paragraph (b) of this subsection, a school district may submit to the Department
21 of Education a plan for reconstituting data necessary to determine whether a reconfigured school has
22 met all requirements for meeting adequate yearly progress taking into consideration the changes in
23 service areas. The plan shall assure that local district calculations are accurate and appropriately include

all student data in annual calculations. The plan shall be submitted to the Department of Education at the same time the district notifies the Department of Education of the school reconfiguration. If the Department of Education approves the plan, it shall become effective and shall remain in effect unless a specific waiver from this reconfiguration arrangement is requested from and granted by the Kentucky Board of Education as provided in this administrative regulation. This alternative shall be implemented the year of the reconfiguration.

(4) A school that has contained more than one (1) level (elementary, middle, or high school) and is reconfigured by removing an entire level of the accountability grades may request that the portion of the school remaining stable be considered within the accountability system using its established historical data.

(5) A school in transition because of a new building or a new policy affecting population served and being phased in may request that the Department of Education establish data to maintain the continuity of accountability data if the request does not require the tracking of individual student data. This request shall require the approval of each affected school council, or the principal, if a school does not have a council, and the local board of education upon the recommendation of the superintendent.

Section 7. Accountability Procedures. (1) To establish expected levels of growth for each school, a straight line shall be drawn from a school's baseline minus one (1) standard error of measurement established in the 1998-1999 and 1999-2000 biennium to the state goal of a growth accountability index of 100 minus one (1) standard error of measurement by 2014.

(2) There shall be five (5) points of school recognition. These shall be determined from the baseline data (school years 1998-1999 and 1999-2000) so that at least ten (10) percent of the schools fall below the first point of recognition and the fifth recognition point shall be set at 100 on the accountability index

scale, with the remaining points being established at equal whole number intervals between the high and the low.

Section 8. School Classifications Recognizing Growth. (1) To determine if a school is classified as meets goal, progressing, or in need of assistance, the school's growth accountability index for a biennium shall be compared to the corresponding goal point and assistance point.

(2) A school shall be classified as meets goal if the school's growth accountability index meets or exceeds its goal point and meets the dropout and novice reduction requirements of this section.

(3) To receive rewards under the provisions of this administrative regulation, a school shall have a biennial dropout rate less than or equal to five and three-tenths (5.3) percent, or a dropout rate that is at least one-half ($1/2$) of one (1) percent lower than its dropout rate of the previous biennium. A school shall not receive rewards if its dropout rate exceeds six (6) percent. If a school is reconfigured for a biennium, the school shall receive the aggregate district dropout rate for the biennium.

(4) To receive rewards under this administrative regulation, a school shall reduce the percent of novices on a schedule so that by the target biennium, the school shall have five (5) percent or less of its students scoring in the novice range of performance. The percent of novices shall be calculated to be reflective of the weights in Section 3 of this administrative regulation. The schedule shall be calculated by subtracting five (5) from the baseline percent novice and dividing this value by seven (7). The maximum allowable percent novice for each biennium shall be calculated as follows:

(a) Year 2002 = baseline percent novice minus the required novice reduction factor;

(b) Year 2004 = baseline percent novice minus the required novice reduction factor multiplied by two (2);

(c) Year 2006 = baseline percent novice minus the required novice reduction factor multiplied by three (3);

(d) Year 2008 = baseline percent novice minus the required novice reduction factor multiplied by four (4);

(e) Year 2010 = baseline percent novice minus the required novice reduction factor multiplied by five (5);

(f) Year 2012 = baseline percent novice minus the required novice reduction factor multiplied by six (6); and

(g) Year 2014 = baseline percent novice minus the required novice reduction factor multiplied by seven (7).

(5) A school shall be classified as a progressing school if the school's growth accountability index falls below its goal point and meets or exceeds its assistance point. A progressing school shall obtain an accountability index greater than that which it obtained in the previous biennium to earn a reward and other recognition as a progressing school.

(6) A school shall be classified as in need of assistance school if the school's growth accountability index falls below its assistance point. A school classified as being in need of assistance shall be eligible to apply for commonwealth school improvement funds and may be subject to a scholastic audit.

(7) In 2002, the highest scoring five (5) percent of all schools shall be designated as commonwealth pace-setter schools if they have met or exceeded the fourth point of recognition and if they meet the dropout rate and novice reduction requirements of this section. This calculation shall be based on the total accountability index of the school regardless of whether one (1), multiple, or no grades at which the norm-referenced test is administered are included. If not otherwise receiving rewards in recognition for growth, a commonwealth pace-setter school shall receive one (1) share of rewards. In addition, to be classified as a pace-setter school beginning with the biennium ending in 2004, a school shall not have

declined in both of the two (2) previous biennia. The rewards that may be due a school for having passed a higher point of recognition shall be given in addition to this amount.

Section 9. Reward Amounts. (1) There shall be two (2) levels of rewards for growth. A school classified as meets goal in accordance with Section 8(2) of this administrative regulation shall earn three (3) shares of rewards. A school classified as progressing in accordance with Section 8(5) of this administrative regulation shall earn one-half (1/2) share of rewards.

(2) A special one (1) time reward amount shall be distributed to schools as they meet or exceed school recognition points. These schools shall receive one (1) share of rewards and other forms of recognition as determined by the Kentucky Board of Education for meeting or exceeding each school recognition point.

(3) If a school passes two (2) or more of the school recognition points, in one (1) biennium, the reward shall be cumulative. A school shall be awarded these amounts only one (1) time for meeting or passing each point. A school earning this reward and subsequently falling below a recognition point shall not earn the reward for passing the point again.

(4) A school shall earn a recognition point reward based on where its baseline falls and shall not receive rewards for meeting or exceeding school recognition points below its baseline index.

(5) The total amount of rewards to be distributed to schools and school districts earning rewards shall not exceed one and three-fourths (1 3/4) percent of the amount of funds paid to certified personnel within Kentucky's public schools during the last year of the accountability cycle. The total number of shares earned shall be divided into the amount determined pursuant to the subsection to determine the per share reward amount; however, a reward share shall not exceed \$2000. A reward share shall be distributed to a school that meets the requirements for rewards as specified in Section 8 of this administrative regulation. The number of shares earned shall be multiplied by the total number of

certified staff, as provided in KRS 158.6455 and subsection (6) of this section, to determine the final reward amount, as follows:

- (a) Meets goal: number of certified full-time equivalent (FTE) staff times three (3) shares;
- (b) Progressing: number of certified full-time equivalent (FTE) staff times one-half (1/2) share;
- (c) Pass one (1) school recognition point: number of certified full-time equivalent (FTE) staff times one (1) share; and
- (d) Pace setter: number of certified full-time equivalent (FTE) staff times one (1) share.

(6) Beginning with rewards issued at the close of the 1999-2000 school year, a school shall earn rewards for use in the school based on the number of certified staff assigned to the school at the close of the biennium. A reward amount shall be determined based on the number of verified certified staff assigned to the school or combinations of schools earning the reward. A reward amount for part-time and itinerant staff shall be calculated based on the proportion of time spent in the school.

Section 10. School Accountability Requirements of the "No Child Left Behind Act of 2001". (1) For the purpose of determining whether a school has met the annual measurable objectives in reading or mathematics, the Kentucky Department of Education, using reading and mathematics data from the 2001-2002 school year, shall establish a single starting point for each content area at each accountability level (elementary, middle, or high school) measuring the percentage of students meeting or exceeding the state's proficient level of academic achievement on the state assessments. The starting points for each accountability level shall be the percentage of students at or above the proficient level who are in the school at the 20th percentile in the state, based on enrollment, among all schools ranked by the percentage of students at or above the proficient level.

(2) For purposes of determining adequate yearly progress, a school shall be held accountable based on an aggregated average of the performance of the elementary, middle, or high school students who have

1 been enrolled in the school for a full academic year in the accountability grades and producing school
2 level accountability statistics including:

- 3 (a) Percent proficient and above in reading and mathematics;
- 4 (b) School classification criteria as described in subsection (5)(b) of this section;
- 5 (c) Graduation rates; and,
- 6 (d) Participation rates.

7 (3) The aggregated average shall be computed based on the most recent two (2) years of student
8 performance data in reading and mathematics from the Kentucky Core Content Test.

9 ~~[If a school does not meet an annual measurable objective based on the current year aggregated average~~
10 ~~of the performance of the elementary, middle, or high school students, the aggregated average may be~~
11 ~~computed based on the most recent two (2) or three (3) years of student performance data in reading and~~
12 ~~mathematics.]~~

13 (4) These statistics shall be used to determine if a school has met adequate yearly progress as measured
14 against the annual measurable objectives established in Section 10(11) of this administrative regulation.

15 (5) Meeting adequate yearly progress. Schools shall be determined to have made adequate yearly
16 progress for a school year if:

17 (a) The school and all subpopulations of sufficient size identified in 20 U.S.C. 6301 et seq., met district
18 annual measurable objectives in both reading and mathematics or met the conditions described as "safe
19 harbor" in 703 KAR 5:001;

20 (b) The school had a school classification of any category of progressing or meets goal in the CATS
21 biennial or midpoint classification, whichever occurred more recently, at the elementary and middle
22 school accountability levels; or for a school in the assistance category which demonstrates growth in the

accountability index at or above the state average for the specific grade level configuration as defined in 703 KAR 5:001;

(c) The school demonstrated progress or met the annual goal for graduation rate as defined in 703 KAR 5:001; and

(d) The school had a participation rate of at least ninety-five (95) percent of the enrolled students and ninety-five (95) percent of each subpopulation of sufficient size identified in 20 U.S.C. 6301 et seq.

Participation rate shall be computed as an average of the most recent two (2) years, to reach ninety-five (95) percent. [~~Participation rate may be computed for the current year or, as an average of the most recent two (2) or three (3) years, to reach ninety five (95) percent.~~]

(6) No child left behind (NCLB) improvement school determination. A school shall be identified as a "NCLB improvement school" if for two (2) consecutive years the school fails to make adequate yearly progress in the same content area as defined in 703 KAR 5:001 - reading or mathematics.

(7) Reward or recognition. For a school meeting adequate yearly progress for two (2) consecutive years in both reading and mathematics, it shall receive a reward or recognition from the Department of Education as determined on an annual basis.

(8) Before identifying a school as a no child left behind improvement school and implementing consequences required by 20 U.S.C. 6301 et seq., the local school district shall provide the school with an opportunity to review the school-level data on which the proposed identification is based. Not later than thirty (30) days after the district provides the school with the opportunity to review such school-level data, the district shall make public a final determination on the status of the school with respect to the identification.

(9) Confidence intervals. A school shall be considered to have met the annual measurable objective in reading or mathematics if:

(a) The percent of students scoring proficient or above in a school meets or exceeds the annual measurable objective in reading or mathematics; or

(b) The annual measurable objective falls within the ninety-nine (99) percent confidence interval placed around the school's percent of students proficient and above. The confidence interval shall also be based upon the same most recent two (2) years of student performance data upon which the aggregated average is based. ~~[If more than the current year aggregated average of the performance of the elementary, middle, or high school students is used to compute an annual measurable objective, the confidence interval shall also be based upon the same most recent two (2) or three (3) years of student performance data upon which the aggregated average is based.]~~

(10) Students included in participation rates. A student enrolled in a Kentucky public school on the first day of the testing window for the school shall be included in the calculation of the participation rates for the total population and for each subpopulation of sufficient size identified in 20 U.S.C. 6301 et seq.

(11) Students included in determining whether a school meets annual measurable objectives. Beginning with data from the 2003-2004 school year, a student enrolled in a school for a full academic year shall be included in the school calculation of the percent of students performing at the proficient level or above in both reading and mathematics for purposes of federal accountability decisions.

(12) Annual Measurable Objectives in Reading and Mathematics - 2003 through 2014. The annual measurable objectives for reading and mathematics shall be as follows.

	Elementary		Middle		High		Primary-08		Primary-12		7-12	
Year	Reading	Math	Reading	Math	Reading	Math	Reading	Math	Reading	Math	Reading	Math
2001-02	47.27	22.45	45.60	16.49	19.26	19.76	46.44	19.47	37.38	19.57	32.43	18.13
2002-03	47.27	22.45	45.60	16.49	19.26	19.76	46.44	19.47	37.38	19.57	32.43	18.13

2003-04	47.27	22.45	45.60	16.49	19.26	19.76	46.44	19.47	37.38	19.57	32.43	18.13
2004-05	53.86	32.14	52.40	26.93	29.35	29.79	53.14	29.54	45.21	29.62	40.88	28.36
2005-06	53.86	32.14	52.40	26.93	29.35	29.79	53.14	29.54	45.21	29.62	40.88	28.36
2006-07	53.86	32.14	52.40	26.93	29.35	29.79	53.14	29.54	45.21	29.62	40.88	28.36
2007-08	60.45	41.84	59.20	37.37	39.45	39.82	59.83	39.6	53.04	39.68	49.32	38.60
2008-09	67.04	51.53	66.00	47.81	49.54	49.85	66.53	49.67	60.86	49.73	57.77	48.83
2009-10	73.64	61.23	72.80	58.25	59.63	59.88	73.22	59.74	68.69	59.79	66.22	59.07
2010-11	80.23	70.92	79.60	68.68	69.72	69.91	79.92	69.8	76.52	69.84	74.66	69.30
2011-12	86.82	80.61	86.40	79.12	79.82	79.94	86.61	79.87	84.35	79.89	83.11	79.53
2012-13	93.41	90.31	93.20	89.56	89.91	89.97	93.31	89.93	92.17	89.95	91.55	89.77
2013-14	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00

1 Section 11. No Child Left Behind School Consequences. (1) Tier 1 consequences for no child left
2 behind improvement schools. If a Title I school is identified as a no child left behind (NCLB)
3 improvement school, the local school district shall provide parental notification with explanations,
4 required in 20 U.S.C. 6301 et seq., including information that all students enrolled in the school have the
5 option to transfer, at the district's expense, to another public school operated and selected by the local

1 school district that has not been identified as a school in improvement. The NCLB improvement school
2 shall also write or revise its school plan.

3 (2) Tier 2 consequences for NCLB improvement schools. If a Title I school identified as an NCLB
4 improvement school fails to make adequate yearly progress in both reading and mathematics by the end
5 of one (1) full year after being identified as a NCLB improvement school, the local district shall require
6 that school to provide supplemental services as required by 20 U.S.C. 6301 et seq., and continue to
7 provide services mandated in Section 11(1) of this administrative regulation.

8 (3) Tier 3 consequences for NCLB improvement schools. If a Title I school identified as an NCLB
9 improvement school fails to make adequate yearly progress in both reading and mathematics by the end
10 of two (2) full years after being identified, the local district shall take corrective action as required by 20
11 U.S.C. 6301 et seq. and consistent with all relevant Kentucky statutes, and continue to provide services
12 required in Section 11(1) and (2) of this administrative regulation.

13 (4) Tier 4 consequences for NCLB no child left behind improvement schools. If a Title I school
14 identified as an NCLB improvement school fails to make adequate yearly progress in both reading and
15 mathematics by the end of three (3) full years after being identified, the local district shall plan for
16 alternative school governance required by 20 U.S.C. 6301 et seq., and continue to provide services
17 required in Section 11(1), (2), and (3) of this administrative regulation. If adequate yearly progress in
18 both reading and mathematics is not made four (4) years after being identified as a NCLB improvement
19 school, the alternative governance plan shall be implemented.

20 Section 12. Duration of Consequences. If a school identified as a NCLB improvement school makes
21 adequate yearly progress in both reading and mathematics as defined in 703 KAR 5:001 for two (2)
22 consecutive school years after the identification, the school shall no longer be identified as a NCLB
23 improvement school and the school shall not be subject to federal consequences.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(4).

(Date)

Gene Wilhoit
Commissioner of Education

(Date)

Keith Travis, Chair
Kentucky Board of Education

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation: 703 KAR 5:020

Agency Contact Person: Kevin M. Noland

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes a single assessment system with two accountability dimensions: one addressing the requirements of KRS 158.6455 to determine school classifications, and a second addressing the conditions necessary to conform to federal assessment and accountability requirements of the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq.

(b) The necessity of this administrative regulation: This administrative regulation was necessary to implement provisions of KRS 158.6455 and the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq. (NCLB)

(c) How this administrative regulation conforms to the content of the authorizing statute: This administrative regulation provides specifics for the state-wide assessment and accountability programs as required by KRS 158.6453, KRS 158.6455, and the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq., including types of assessments to be administered, grades and content areas to be assessed, weights of each assessment, and details of how schools will be held accountable.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This regulation provides the specifics for the implementation of the state-wide assessment and accountability programs which will be applied in all schools as required by KRS 158.6453, KRS 158.6455, and the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment provides specifics on how Kentucky will become compliant with the assessment and accountability requirements of the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq., and implements flexibility recently offered by the United States Department of Education.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary to specify the requirements of schools in becoming compliant with the “No Child Left Behind Act of 2001”, 20 U.S.C. 6301 et seq.

(c) How the amendment conforms to the content of the authorizing statute: This amendment conforms to the authorizing statute by specifying the requirements of the assessment and accountability programs.

(d) How the amendment will assist in the effective administration of the statutes: This amendment will provide to schools specifics for the implementation of the requirements of the statewide assessment and accountability programs.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Superintendents, principals, teachers, and students of local school districts in Kentucky, and supporting staff in the Kentucky Department of Education.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: The proposed amendment will impact at the state level how school scores are determined for math and reading, grades 3-8 under NCLB.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: None

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): None

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Kentucky will not risk loss of federal funds for its public schools.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: The proposed amendment does not result in additional costs.

(b) On a continuing basis: The proposed amendment does not result in additional costs.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal assessment funds under NCLB.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The NCLB federal funding as mentioned above is expected to cover the cost necessary to implement this administrative regulation.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish fees or directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all public and elementary schools.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation No. 703 KAR 5:020

Contact Person: Kevin Noland

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)? Yes

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? school districts

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. "The No Child Left Behind Act of 2001", 20 U.S.C. 6301 et seq.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. No additional expense to school districts

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None

(c) How much will it cost to administer this program for the first year? The proposed amendment will require no additional cost

(d) How much will it cost to administer this program for subsequent years? The proposed amendment will require no additional cost

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: